

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE

CHARLES LATWAIN FINNEY,)	
)	
Plaintiff,)	
)	
v.)	No.: 1:16-CV-27-TAV-SKL
)	
CHRISTOPHER HOWARD, Warden, et al.,)	
)	
Defendants.)	

MEMORANDUM OPINION

This is a pro se prisoner's civil rights action pursuant to 42 U.S.C. § 1983. On January 23, 2017, the Court entered an Order screening Plaintiff's amended complaint, and allowing Plaintiff's due process claims to proceed against Defendants Chapman and Hams [Doc. 7 p. 4]. The Court ordered Plaintiff to complete service packets for Defendants Chapman and Hams, and return them to the Clerk's office within twenty-one (21) days of the date of the Order [*Id.*]. The summons for both Defendants were returned executed on April 6, 2017 [Doc. 9]. However, on December 13, 2017, the Court ordered Plaintiff to show cause as to why this action should not be dismissed for failure to prosecute, based on his failure to seek default as to Defendants Chapman and Hams [Doc. 10]. Plaintiff was notified that a failure to comply with the Order would result in dismissal of his case [*Id.*].

Plaintiff has failed to respond to the Court's Order within the time required. Accordingly, this action will be **DISMISSED WITHOUT PREJUDICE** for Plaintiff's failure to prosecute and to comply with the orders of this Court. Fed. R. Civ. P. 41(b); *Jourdan v. Jabe*, 951 F.2d 108, 110 (6th Cir. 1991); *see also Link v. Wabash R.R. Co.*, 370 U.S. 626, 630–31 (1962) (recognizing the court's authority to dismiss a case *sua sponte* for lack of prosecution). The Court will **CERTIFY**

that any appeal from this action would not be taken in good faith and would be totally frivolous. *See* Fed. R. App. P. 24. Therefore, should Plaintiff file a notice of appeal, he will be **DENIED** leave to appeal in forma pauperis. *See* 28 U.S.C. § 1915(a)(3); Fed. R. App. P. 24.

AN APPROPRIATE ORDER WILL ENTER.

s/ Thomas A. Varlan
CHIEF UNITED STATES DISTRICT JUDGE